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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,529	07/10/2003	3Yen-Fu Chen	AUS920030520US1	3582

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EXAMINER	
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ART UNIT	PAPER NUMBER
2174	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/617,529	CHEN ET AL.	
	Examiner	Art Unit	
	Thanh T. Vu	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *08/15/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is responsive to Amendment, filed 07/19/2007.

Claims 1-38 are pending in this application. In the Amendment, claims 39-64 were withdrawn, and claims 1 and 20 were amended. This action is made Final.

Claim Objections

Claims 1 and 20 are objected to because of the following informalities: the phrase "a changes" Claims 1 and 20 is grammatically incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the change" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirlay et al. ("Kirlay", U.S. Pat. No. 6,249,606), Bauersfeld (U.S. Pat. No. 5,917,491).

Per claim 1, a programmable apparatus for modifying a menu program, comprising:

a configuration table having at least one pointer operation, the pointer operation having a plurality of user selectable operation modes (figs. 2 and 13-14; col. 6, lines 16-25; col. 17, lines 27-31; *different gestures are provided by pointer operation*; col. 7, lines 65-67 and col. 8, lines 38-40; *shows pointer operation having plurality of user selectable operation modes (i.e. "single stroke" geometric gestures or alpha numeric gestures). Such operation modes (gesture categories) are configured during the training of the gesture category* (see, col. 17, lines 55-67); and

a configuration processor for detecting changes in the configuration table in response to a user selection of a selectable operation mode (figs. 1 and 13-14; col. 17, lines 13-18 and 27-31 *shows menu items of an application program are associated with different gesture categories.* col. 17, lines 55-67 *shows the system can detect changes in the configuration table in response to a user selection of a selectable operation mode (i.e. selection of a gesture during training of the gesture category*) and distributing the changes to a menu program wherein a user interaction with the menu item will be in accordance with the user selection (col. 17, lines 27-67; *changes of gesture categories during training of the gesture categories can be distributed to a menu program and wherein s user interaction with menu item will be in accordance with the user selection (i.e. selection of a gesture)).*

Although Kirlay teaches an application program with menu items (see col. 17, lines 13-20), Kirlay does not specifically teach the menu within an application program is a drop-down menu, dropdown menu program for the display of menu items in a drop down menu. However, Bauersfeld teaches a menu within an application program is a drop-down menu and dropdown

menu program for the display of menu items in a drop down menu (figs. 2 and 3-4C; col. 2, lines 44-46 *describes drop down menu and displaying of items in a drop down menu*). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a drop down menu in an application program as taught by Bauersfeld in the invention of Kirlay in order to conserve space in an application program by including drop-down menu.

Per claim 2, Kirlay teaches wherein the configuration table has an activating operation (figs. 2; col. 7, lines 1-10; command operation).

Per claim 3, Kirlay teaches wherein the configuration table has a selecting operation (col. 17, lines 15-19 and lines 27-30; gesture of mouse device is used to select a menu operation).

Per claim 4, Kirlay teaches the configuration table for menu (fig. 2) and Bauersfeld teaches a scrolling operation (col. 5, lines 37-45; a user can scroll up and down within the dropdown menu to locate a drop position using the drag&drop command).

Per claim 5, Kirlay teaches the configuration table for a menu (fig. 2) and Bauersfeld teaches a sorting operation (col. 8, lines 29-33 and table 9).

Per claim 6, Kirlay teaches the configuration table for a menu (fig. 2) and Bauersfeld teaches a recalling operation (fig. 3; col. 33-45; the bookmark dropdown menu provide a recalling operation of what are being saved in the bookmark).

Per claim 7, Bauersfeld teaches a selectable mode is a pointer-over mode (col. 5, lines 60-65).

Per claim 8, Bauersfeld teaches a selectable mode is a pointer-over-with-clicking mode (col. 5, lines 65-66).

Per claim 9, Kirlay a selectable mode is a pointer-movement mode (col. 6, lines 26-35; gesture is provided by mouse movement).

Per claim 10, Bauersfeld teaches a selectable mode is a pointer-over-with-highlighting mode (table 8; col. 7, lines 10-15).

Per claim 11, Bauerfeld teaches a selectable mode is a pointer-over-with-highlighting-and-clicking mode (table 8, col. 7, lines 10-15; while dragging, clicking mode is required).

Per claim 12, Kirlay teaches a configuration editor (fig. 14; col. 17, lines 55-65; gesture created by the user).

Per claim 13, Krilay teaches the configuration editor is a graphical configuration editor (fig. 14).

Per claim 14, Kirlay teaches the configuration editor has at least one operation control panel, the operation control panel having a plurality of selectable mode indicators (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67; multiple different gestures can be defined).

Per claim 15, Kirlay teaches the operation control panel is an activating control panel (col. 17, lines 28-31; computer commands are activated using gestures).

Per claim 16, Kirlay teaches the operation control panel is a selecting control panel (col. 17, lines 28-31; computer commands are selected using gestures).

Per claim 17, Kirlay teaches the operation control panel (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67) and Bauersfeld teaches a scrolling control panel (col. 5, lines 37-45; a user can scroll up and down within the dropdown menu to locate a drop position using the drag&drop command).

Per claim 18, Kirlay teaches the operation control panel (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67) and Bauersfeld teaches a sorting control panel col. 8, lines 29-33 and table 9).

Per claim 19, Kirlay teaches the operation control panel (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67) and Bauersfeld teaches a recalling control panel (fig. 3; col. 33-45; the bookmark dropdown menu provide a recalling operation of what are being saved in the bookmark).

Claims 20-38 are rejected under the same rationale as claims 1-19 respectively.

Response to Arguments

Applicant's primary argument is that "applicants do not use cursor motion to create application specific macros in order to avoid the interaction between the user and a program application menu. Applicants simplify the interaction and personalization between a user and the dropdown menu of any application. Applicant's embodiments are not a substitute for the application menu" (pages 15 and 16 of remarks.)

The examiner does not agree for the following reasons:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the interaction and personalization between a user and the dropdown menu of any application) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372,

54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

In this case, Kirlay and Bauersfeld read on the claim language as in the following:

Kirlay teaches a configuration table having at least one pointer operation, the pointer operation having a plurality of user selectable operation modes (figs. 2 and 13-14; col. 6, lines 16-25; col. 17, lines 27-31; *different gestures are provided by pointer operation*; col. 7, lines 65-67 and col. 8, lines 38-40; *shows pointer operation having a plurality of user selectable operation modes (i.e. "single stroke" geometric gestures or alpha numeric gestures). Such operation modes (gesture categories) are configured during the training of the gesture category* (see, col. 17, lines 55-67); and a configuration processor for detecting changes in the configuration table in response to a user selection of a selectable operation mode (figs. 1 and 13-14; col. 17, lines 13-18 and 27-31 *shows menu items of an application program are associated with different gesture categories*. col. 17, lines 55-67 *shows the system can detect changes in the configuration table in response to a user selection of a selectable operation mode (i.e. selection of a gesture during training of the gesture category*) and distributing the changes to a menu program wherein a user interaction with the menu item will be in accordance with the user selection (col. 17, lines 27-67; *changes of gesture categories during training of the gesture*

categories can be distributed to a menu program and wherein s user interaction with menu item will be in accordance with the user selection (i.e. selection of a gesture).

Bauersfeld teaches a menu within an application program is a drop-down menu and dropdown menu program for the display of menu items in a drop down menu (figs. 2 and 3-4C; col. 2, lines 44-46 *describes drop down menu and displaying of items in a drop down menu.*)

Accordingly, the combination of Kirlay and Bauersfeld reads on the claim language.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh T. Vu whose telephone number is (571) 272-4073. The examiner can normally be reached on Mon-Thur and every other Fri 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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